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8 **UNITED STATES BANKRUPTCY COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 In re

Case No.: 3:25-00667-JBM-11

11 THE PHAIR COMPANY LLC

Chapter 11

12 Debtor and Debtor-in-Possession

(Jointly Administered with Case No. 3:25-00661-JBM)

13 ☒ ALL DEBTORS

14 ☐ THE PHAIR COMPANY LLC, ONLY
Tax I.D. (EIN) #20-4183527

JUDGMENT CREDITOR RENZULLI
PROPERTIES LLC'S OPPOSITION TO
DEBTORS' AMENDED SECOND
MOTION TO EXTEND EXCLUSIVITY
PERIODS TO FILE A CHAPTER 11
PLAN OF REORGANIZATION AND
SOLICIT ACCEPTANCES

15 ☐ JEFFREY DAVID PHAIR, ONLY
16 S.S. # XXX-XX-4458

17 Date: December 4, 2025
18 Time: 2:00 p.m.
19 Ctrm: 18
20 Dept: 2
Place: 325 W. F Street
San Diego, CA 92101

MEMORANDUM OF POINTS & AUTHORITIES

FACTS

Debtor The Phair Company LLC (“TPC”) showed total assets of \$2,723,356. TPC’s main asset was 945 E. J St., Chula Vista, California 91910 (“945 E. J St.”) TPC valued 945 E. J St. at \$2,700,000. DOC 10, p. 10. Without 945 E. J St., TPC’s assets total \$23,356. DOC 10, p. 10.

This Court granted Renzulli Properties LLC’s (“Renzulli”) motion to lift the automatic stay to sell 945 E. J St. DOC 121.

The San Diego County Sheriff’s office (“Sheriff”) called Renzulli’s counsel on October 31, 2025 and told him that the Sheriff’s office is planning a sale of 945 E. J St. for December 17, 2025. Dec. of W. Pennington ¶ 1.

Debtor Jeffrey David Phair declared his interest in TPC at \$3,700,000, even though TPC’s total assets were \$2,723.356. DOC 10, p. 10; In case 25-00661, DOC 68, p. 4. After the sale of 945 E J. St., Mr. Phair’s interest in TPC will be less than \$25,000.

Debtor Mr. Phair claimed Bella Mar Land Investors LLC (“Bella Mar”) and Green Phair Scripps Partners LLC (“Green Phair”) were worth \$8,250,000¹ and \$9,450,000 respectively. DOC. 187, p. 21:14; In case 25-00661, DOC 68, p. 4. Mr. Phair, as the debtor in possession and manager, allowed Bella Mar and Green Phair to lose their authority under California law to conduct any business. Debtors’ motion failed to address the suspension of Bella Mar and Green Phair. DOC 137-1, Exhs. 1 and 4.

The Court appointed an examiner. One of the examiner’s duties is to evaluate Debtors’ prepetition actions related to use of the proceeds from the sale of 3145 and 3167 Beyer Blvd., San Diego, California (“3145 Beyer.”) DOC 211, pp. 6-7. Debtors’

¹ Mr. Phair’s schedules showed Bella Mar with a value of \$11,250,000. In case 25-00661, DOC 12, p. 6.

1 motion made no statement concerning the return of the funds distributed to investors.
2 Debtors made no statement concerning the filing of tax returns or reviving the
3 suspended entities.

4 **ARGUMENT**

5 **THE *DOW CORNING* FACTORS**

6 “In establishing cause, the debtor bears the burden of proof.” *In re McLean*
7 *Industries, Inc.*, 87 B.R. 830, 834 (Bankr. S.D.N.Y. 1987). Debtor listed the non-
8 exclusive factors for determining whether to extend the exclusivity period.

9 Here, the court ordered joint administration of case. Because the Court lifted the
10 automatic stay for Renzulli Properties LLC to sell 945 E. J St., that Sheriff’s sale puts
11 Debtor TPC in a different status from Debtor Mr. Phair.

12 After the December 17, 2025 Sheriff’s sale of 945 E. J St., Debtor TPC will have
13 lost over 99% (\$2,700,000 / \$2,723,356) of its assets. TPC will have less than \$25,000
14 in assets consisting of personal property. TPC will have no development projects, and
15 there is no reason to extend its exclusive period because TPC has no projects, cash or
16 interests in real property, therefore Debtor TPC has no probability of reorganization
17 success.

18 Renzulli obtained a judgment against Mr. Phair, TPC and Green Phair based on
19 breach of contract by Mr. Phair, TPC and Green Phair. A judgment was entered for
20 Renzulli against Mr. Phair, TPC and Green Phair.

21 This Court took judicial notice of the order from the Superior Court of California
22 in case 37-2022-00046736-CU-BC-CTL (“22-46736”) where the Superior Court
23 observed “that the breach of contract by The Phair Company LLC relieved the seller,
24 Renzulli Properties LLC, from all further obligations under the contract.” DOC 66-2,
25 p. 5:7-9, ¶ 20; DOC 66-8, Exh. 20. Mr. Phair claims that the value of Green Phair is
26 \$9,450,000 based on a false claim that there is a contract between Mr. Phair, TPC, and
27 Green Phair and Renzulli. There is no contract between the parties. Renzulli

28 Because Debtors Mr. Phair and TPC failed to pursue their litigation in the

1 Superior Court or here to prove that it has a contract, on October 22, 2025, Renzulli
2 filed an adversary proceeding, 25-90015-JBM, for this Court to declare the rights
3 between Renzulli and Mr. Phair, TPC, and Green Phair.

4 Debtors' motion here, filed after Renzulli's adversary proceeding, did not
5 mention Renzulli's motion or Debtor's plan to prove that Debtor's entities have a
6 contract with Renzulli.

7 **RENZULLI WILL FILE A MOTION FOR JUDGMENT ON THE**
8 **PLEADINGS FOR ITS ADVERSARY PROCEEDING**

9 Because this Court has already taken judicial notice of Renzulli's judgment and
10 the Superior Court's November 27, 2024 order,

11 **1. The size and complexity of the case**

12 Debtors argued, without evidence that there were multiple development projects.
13 Where are those projects? There is one project: Bella Mar. Mr. Phair and his entities
14 have no contract with Renzulli. The Yaptangcos and the trustees of the Kastlunger Trust
15 filed a motion to declare that there is no contract between them and Mr. Phair's entity.
16 TPC's property at 945 E. J St. will be sold.

17 On the sole project under development, Bella Mar, Mr. Phair has already
18 declared that the purchasers are not interested in the project without a rezoning that will
19 take years, and at the end of those years, Mr. Phair's interest, if we are to believe his
20 inflated figures is \$8,250,000. This \$8,250,000 is \$3,000,000 less than Mr. Phair's
21 declaration of Bella Mar's value on February 25, 2025. In case 25-00661, DOC 12, p.
22 6. There is no complexity justifying an extension.

23 TPC has no projects, no cash and its sole asset will be sold on December 17,
24 2025. Debtors provided no evidence to show how TPC is complex.

25 **2. Necessity of sufficient time to permit the debtor to negotiate a plan of**
26 **reorganization and prepare adequate information**

27 The record reveals a fundamental deficiency: Debtors have not negotiated with
28 Renzulli, their largest secured creditor. The evidence is stark. Debtors' motion contains

1 no allegation of negotiations with Renzulli. Debtors produce no correspondence, no
2 term sheets, no meeting notes, no evidence whatsoever of engagement with their
3 principal stakeholder. Debtors reference conversations with small investors, but these
4 creditors are subordinate to Renzulli and cannot be paid unless Renzulli's senior claim
5 is satisfied first.

6 The lack of a documentary record tells a story. On June 25, 2025, Debtors
7 represented that "Debtors have [been] diligently pursuing reorganization and the
8 structure of a joint plan of reorganization, but the exclusivity period will expire on June
9 25, 2025." DOC 79, p. 2:14-16. Four months later, on October 23, 2025, Debtors
10 claimed "The Debtors have made substantial progress with preparation and negotiation
11 of a joint plan of reorganization and have been diligently pursuing reorganization. The
12 Debtors' joint plan and disclosure statement have been fully drafted, and the Debtors
13 are currently finalizing their projections." DOC 229, p. 4:16-19.

14 Yet what has materialized after 240 days? No plan summary. No projections. No
15 disclosure statement. Only repeated assurances of imminent completion, separated by
16 months of inactivity. Most critically, no proof of negotiations with Renzulli. Without
17 this foundational evidence, Debtors cannot meet their burden for this second element.

18 **3. The existence of good faith progress towards reorganization**

19 Debtors argued, without evidence, that they've made good faith progress.

20 The Debtors have made good faith progress in moving toward
21 reorganization. As evidenced by the dockets in the two bankruptcy
22 cases, the Debtors' cases have been very active. Such activity has
23 included the Debtor timely filing their schedules, appearing at their
24 341(a) meetings, filing their monthly operating reports, filing their
25 periodic reports on related entities, seeking the employment of
26 professionals, and obtaining the joint administration of the two
27 cases. In addition, the Debtors have responded to Renzulli's
28 repeated attempts to interfere with the Debtors' administration of
their bankruptcy cases, including several motions for relief from

1 stay and a motion to appoint a trustee or examiner or dismiss or
2 convert the Debtors' bankruptcy cases.

3 DOC 229, p. 12:3-10.

4 Let's be clear about what Debtors are saying: it's Renzulli's fault we haven't
5 finished our plan. This doesn't hold up.

6 Completing a plan is a unilateral act. Debtors don't need Renzulli's permission
7 to draft plan provisions, calculate projected distributions, or prepare disclosure
8 documents. These tasks are exclusively theirs under the Bankruptcy Code. Blaming
9 Renzulli for Debtors' failure to complete work only they can do makes no logical sense.

10 True, Renzulli filed motions. True, this Court granted stay relief and appointed
11 an examiner. But why did the Court appoint an examiner? To investigate \$7,100,000 in
12 funds transferred from TPC on July 3, 2024, because Debtors weren't making any effort
13 to recover those funds for creditors. The examiner is a response to Debtors' failure, not
14 evidence of Renzulli's obstruction.

15 What Debtors don't mention is equally important: their motion contains no
16 reference to recovering more than \$4,800,000 that could pay creditors. Debtors
17 complain about delays caused by others while ignoring nearly \$5 million they could
18 pursue for the benefit of the estate. This tells you everything about where the real
19 problem lies.

20 **4. The fact that debtor is paying its bills as they come due**

21 On November 4, 2025, the San Diego County Tax Assessor filed claim 12, for
22 \$9,910.68. The first payment of Debtor's real estate taxes on 945 E. J St. were due on
23 November 1, 2025. TPC has no cash to pay the real estate taxes.

24 Renzulli proved that Debtors are not paying their debts because six of Mr. Phair's
25 entities were suspended by the California Secretary of State after Mr. Phair filed for
26 bankruptcy because those entities had not filed tax returns or paid taxes. DOC 137-1,
27 Exhs. 1, 3-6, and 10.

28 The US Trustee instructed Mr. Phair to obtain fire insurance on 945 E. J St. and

1 Mr. Phair resisted obtaining insurance. Debtors only obtained insurance on 945 E. J St.
2 in response to Renzulli's motion to appoint a trustee or examiner, or convert the case
3 to Chapter 7. We know of the unpaid taxes and suspended entities above. We do not
4 know how many other new claims Debtors have left unpaid.

5 **5. Whether the debtor has demonstrated reasonable prospects for filing**
6 **a viable plan**

7 Debtor TPC has no reasonable prospects for a viable plan because it has no real
8 property, no cash and no business opportunities. With less than \$24,000 in assets, TPC
9 has not met its burden to show that it has a viable plan. The Court should separate the
10 parties for consideration of whether both TPC and Mr. Phair have met their burdens.

11 Debtor Mr. Phair told us that his sole real estate project, Bella Mar, fell apart
12 with the buyers and investors.

13 Debtor Mr. Phair told us that the Bella Mar project would take at least 15 months,
14 but put no date certain when Bella Mar will have cash to pay creditors. DOC 187, p.
15 9:10.

16 Mr. Phair initially claimed that his interest in Bella Mar was worth \$11,250,000.
17 Case 25-00661, DOC 12, p. 6. Now Mr. Phair claims it is worth \$8,250,000 at some
18 unknown time in the future when the property goes from affordable housing apartments
19 to town homes, and is approved for grading permits. During this bankruptcy, Mr. Phair
20 has lost \$3,000,000 on one project.

21 **6. Whether the debtor has made progress in negotiations with its**
22 **creditors**

23 As listed above, Renzulli is the largest secured creditor and Debtors made no
24 claim to have had any conversation with Renzulli. This factor weighs in favor of
25 denying the motion.

26 **7. The amount of time which has elapsed in the case**

27 The statute permits exclusivity extensions up to 18 months for a reason: to
28 accommodate genuinely complex reorganizations. Consider what that maximum

1 contemplates—retailers with hundreds of locations negotiating lease rejections;
2 manufacturers unwinding international supply chains; healthcare systems coordinating
3 with regulators across multiple states. These are cases where billions of dollars and
4 thousands of jobs hang in the balance.

5 Now consider this case. TPC’s remaining assets total less than \$24,000 after the
6 scheduled Sheriff’s sale of 945 E. J St.

7 Mr. Phair’s entire reorganization hinges on a single property: Bella Mar. Mr.
8 Phair estimates that his future interest in Bella Mar will sell for \$8,250,000, but
9 concedes it is not yet ready for market. When will it be ready? Mr. Phair, despite
10 claiming 40 years in real estate development, cannot say.

11 This is not complexity. This is either incompetence or evasion. An experienced
12 developer knows how to build a timeline, even with contingencies to show when the
13 property will be sold and the cash in hand. That Mr. Phair offers none suggests Debtors
14 seek maximum time not because their case requires it, but because they have no plan to
15 complete the work. That Mr. Phair cannot provide even a rough estimate after 240 days
16 suggests either a lack of genuine progress or a lack of genuine expertise. Neither
17 justifies moving to the maximum statutory extension for this straightforward, single-
18 asset case.

19 **8. Whether debtor is seeking an extension of exclusivity in order to**
20 **pressure creditors to submit to the debtor’s reorganization demands**

21 What would a debtor seeking to negotiate in good faith do? Engage the largest
22 secured creditor. Present plan terms. Discuss feasibility. Identify areas of agreement
23 and dispute. Work toward consensus.

24 What have Debtors done? Filed repeated extension motions without negotiating
25 with Renzulli.

26 When Renzulli obtained relief from the automatic stay, Debtors sought to undo
27 it through deadline extensions. Debtors have the support of their business associate, Mr.
28 DeSantis, through his declaration. DOC 182.

Debtors deployed Mr. DeSantis to sue Renzulli in the Superior Court of California, County of San Diego, case number 25CU007829C. Now Mr. DeSantis files here, and Debtors cite Mr. DeSantis's lawsuit as justification for more delay. "There is also an ongoing dispute between Renzulli and DeSantis regarding the priority of liens secured by the J Street Property that will likely further delay any sheriff's sale." DOC 229, p. 12:20-22. Not so. On February 21, 2025, Mr. DeSantis requested a temporary restraining order to prevent the sale and the Superior Court denied the request. Dec. of W. Pennington ¶ 2, Exh. 1. On October 31, 2025, the Court granted Renzulli's motion to expunge the lis pendens, granted in part Renzulli's special motion to strike under California Code of Civil Procedure section 425.16, granted Renzulli attorney's fees of \$7,090 against Mr. DeSantis, and told Renzulli to file a separate motion for attorney's fees for its success on the special motion to strike. Dec. of W. Pennington ¶ 3, Exh. 2.

Mr. DeSantis has not withdrawn his lis pendens or filed a notice of expungement of his lis pendens against 945 E. J St.

Mr. Phair argued "At a foreclosure sale, the J Street Property will sell for a token amount of likely no more than \$100,000 because it has no significant value until approvals by the City for an upzone to a higher density is achieved." DOC 187, p. 13:19-21. Mr. Phair has his business associates file lis pendens on his property, fails to pay real estate taxes, and fails to record a notice of reconveyance related to an extinguished debt, and then complains that a sheriff's sale will not yield fair market value.

Debtors are not using exclusivity to build consensus—they are using it to avoid consensus. By maintaining exclusive filing rights while refusing to negotiate, Debtors force Renzulli into an impossible position: accept unknown plan terms whenever Debtors choose to propose them, or continue opposing extensions indefinitely while legal fees accumulate.

The benefit to Debtors becomes clear: each extension maintains their exclusive control, each piece of collateral litigation multiplies Renzulli's costs, and each month

1 of delay makes capitulation more attractive than continued resistance. Renzulli must
2 eventually accept Debtors' plan terms—whatever they are, whenever they come—or
3 continue indefinitely opposing extensions and defending against Debtors across
4 multiple forums.

5 This is not reorganization. This is economic warfare, with exclusivity as the
6 primary weapon. The estate does not benefit. Creditors do not benefit. Only Debtors
7 benefit, by leveraging procedural rights to impose unsustainable costs on creditors who
8 refuse to submit to undefined demands. The Court should deny the extension and
9 terminate exclusivity that serves only to coerce rather than reorganize.

10 **9. Whether an unresolved contingency exists.**

11 This factor weighs in favor of granting the motion because there are unresolved
12 contingencies.

13 Debtors have taken no action to resolve the contingencies. If this Court should
14 grant the motion, it should order debtors to take action to resolve the contingencies
15 before the end of the additional extension, and the Court should not grant any additional
16 extensions if sufficient progress has not been made toward resolution of the
17 contingencies.

18 November 5, 2025

19 /s/ Walt Pennington
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